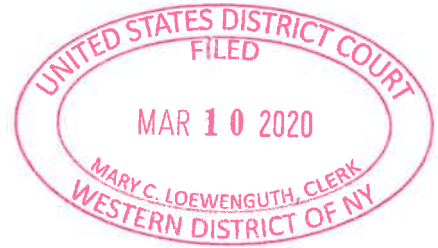


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



JASON ARMSTRONG,

Plaintiff,

v.

18-cv-1380-JLS

DR. KEN JIN, M.D., DR. PAULA
BOZER, M.D.,

Defendants.

DECISION AND ORDER

On November 30, 2018, Plaintiff Jason Armstrong commenced this action. Docket Item 1. On July 16, 2019, Defendants moved to dismiss Plaintiff's intentional infliction of emotional distress cause of action for failure to state a claim. Docket Item 15. Plaintiff opposed the motion on July 23, 2019. Docket Item 18. Defendants did not file any reply papers.

On August 27, 2019, this case was referred to United States Magistrate Judge Leslie G. Foschio for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 21. On January 30, 2020, Judge Foschio issued a Report and Recommendation ("R&R") recommending that the defendants' motion should be granted. Docket Item 24. The parties did not object to the R&R, and the time to do so now has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district


court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Foschio's R&R as well as the parties' submissions on the motion. Based on that review and the absence of any objections, the Court accepts and adopts Judge Foschio's recommendation to grant the defendants' motion. For the reasons stated above and in the R&R, Defendants' motion to dismiss Plaintiff's claim for intentional infliction of emotional distress is GRANTED.

The case is referred back to Judge Foschio for further proceedings consistent with the referral order of August 27, 2019.

SO ORDERED.

Dated: March 6, 2020
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE